

United States Senate

SENATE IMPEACHMENT TRIAL COMMITTEE

WASHINGTON, DC 20510-6326

DISPOSITION OF DISCOVERY ISSUES

The Committee has a duty to receive evidence and to report a statement of facts, both uncontested and contested, for consideration by the full Senate in exercising its sole power to try all impeachments. In order for the Committee to fulfill this duty, the parties must cooperate in sharing information and other tangible evidence that will be made part of the Senate record or appears likely to lead to new, relevant evidence for the Senate proceedings. The parties have agreed to work together in the exchange of information and have come to agreement on several of the original discovery requests identified in the parties' motions. The Committee encourages this cooperation.

The remaining disputes largely concern the scope of Judge Porteous's discovery requests for information beyond the four Articles of Impeachment adopted by the House and for information that is the work product doctrine of the House.

The Committee seeks a fair discovery process which balances the need for Judge Porteous to obtain relevant information necessary for his defense with the orderly resolution of the Articles. Expanding these discovery proceedings to information not reasonably related to the four Articles of Impeachment would cause unnecessary delay and complication of the issues before the Senate. Furthermore, the Committee finds no basis for allowing Judge Porteous broad access to the work product of the House. Therefore, it is the Committee's view that discovery should be limited to information relevant to the four Articles of Impeachment and not subject to a reasonable claim of work product protection by the House.

Upon consideration of the written submissions of the parties on discovery issues, the Committee issues the following rulings:

Judge Porteous has agreed to provide the House with all of the information requested by the House motion for reciprocal discovery. Accordingly, Judge Porteous should promptly provide the information requested by the House as it becomes available.

The House has agreed to provide Judge Porteous with some, but not all, of the information requested by Judge Porteous. In response to Request 1, the House should provide all information in its possession that is relevant to, or likely to lead to new evidence on, the adopted Articles of Impeachment. The Committee finds that Requests 2 and 3 would intrude into the work product of the House and concludes that disclosure is not justified at this time. With respect to Request 4, the House should provide Judge Porteous with all information relevant to and reflecting on the character, credibility, or believability of witnesses that the House intends to call at trial. The House has agreed to provide Judge Porteous with all information responsive to Requests 5 and 6 and should do so promptly. Lastly, the Committee finds that the House need not provide the index of information sought in Request 7.

The Committee encourages the parties to continue cooperation in discovery and other pretrial matters.



CLAIRE McCASKILL
Chairman



ORRIN G. HATCH
Vice Chairman

Dated: June 09, 2010